

MINUTES

Tennessee Board of Examiners for Land Surveyors

The members of the Tennessee Board of Examiners for Land Surveyors met on Thursday, December 1, 2005 beginning at 9:00 am in Room 212 of the Davy Crockett Tower, 500 James Robertson Parkway, Nashville, TN.

Those present were: David Mathews, Vice-Chairman; Sue Braly, Board Member; Max Billingsley, Board Member; Jackie Dillehay, Board Member (did not return to the meeting after the lunch break), Donna Moulder, Administrative Director for the Board and Robert Herndon, Attorney for the Board.

Also present was Lori Medley, Executive Secretary of the Tennessee Association of Professional Surveyors (TAPS).

NEW BUSINESS:

The board reviewed the following transcripts from potential applicants:

- Tim Lingerfelt – submitted a list of courses that his son wants to take from the University of Wyoming. Max Billingsley made a motion that the board notify Mr. Lingerfelt that the University of Wyoming Outreach Program surveying courses are all acceptable to the board based on the value of the number of credit hours as shown on the letter from the University of Wyoming. Jackie Dillehay seconded the motion. There being no further discussion, the motion carried unanimously.
- Stanley Daniel – Approved 12 hours from List III. He needs 18 or more hours from List I and 6 or more hours from List II.
- Clint Sanders – Needs 12 hours from List I.
- Tom Slemph – Has 6 hours from List II. Needs 18 hours from List I.

Ovilee “Danny” Dancy, Jr., TLS #1602, met with the board regarding a situation with Lebron Warren, applicant. The board questioned Mr. Dancy about Middle Tennessee Surveying Company and Mr. Dancy stated that it was his understanding that that was the company that Mr. Warren and Barry Roberts started in Shelbyville, TN. The check that accompanied Mr. Warren’s application was dated April 2004 and it says Middle Tennessee Surveying, but his application says he is working for Arcadis. The names on the check, Lebron Warren and Christopher Allen, are not Tennessee licensed land surveyors. Max Billingsley stated that from his standpoint what he sees is that there is prima facie

evidence that Lebron Warren and Christopher Allen were holding themselves out as land surveyors by a check that says "Middle Tennessee Surveying" out of Shelbyville, TN. They were not working under the supervision of another surveyor because Mr. Dancy's office is not in Shelbyville; he does work in Shelbyville, but he does not have an office there. David Mathews stated that Mr. Roberts also has an office in Jasper, TN. Max Billingsley stated that we have some evidence that appears that they might have been holding themselves out licensed surveyors or the ability to do surveying by letterhead and on the check. Mr. Billingsley made a motion that file a complaint on behalf of the board for the unlawful practice of land surveying in accordance with TCA 62-18-101(b) and that we have both Lebron Warren and Christopher Allen appear before the board for an informal conference. David Mathews added Barry Roberts to that complaint in order to get some information from him also regarding his have offices in two different cities without a licensed surveyor at each location which is also a violation of Rule 0820-4-.09. Jackie Dillehay seconded the motion. There being no further discussion, the motion carried unanimously.

The board held election of officers. Max Billingsley made a motion to nominate David Mathews as Chairman. Jackie Dillehay seconded the motion. The motion carried unanimously. Mr. Billingsley then nominated Sue Braly as Vice-Chairman. David Mathews seconded that nomination. The nomination carried unanimously.

The board signed wall certificates from the October 2005 examination.

Meetings for the year of 2006 were tentatively set. Those dates are as follows:

- January 3, 2006
- March 1-2, 2006
- May 25-26, 2006
- September 14-15, 2006

David Mathews made a motion to go ahead and accept Peter Messier's analysis of the cut-off on the passing grade on the Tennessee specific portion of the exam, so when the scores come in, all Donna has to do is use that score and send it out immediately or factor that score like we normally do to make 70. Max Billingsley suggested that the scores be emailed to the board members when they come in so that they will know what is going on.

Continuing education was reviewed and approved. Continuing education that was taken in 2005 and submitted for 2006 credit was approved this one time only. If it's not reported in the year it was taken, it will be denied.

Monroe T. Elliott's re-application for licensure was reviewed. Mr. Elliott's license expired on December 31, 2003. The board approved his application.

Informal Conference – James Cripps vs. Tom White & Christopher White – Complaint #200501686

Those present were: James Cripps, Sandra Cripps, Jim Cripps, Steven Reed, Tom White, Chris White, Miranda McCormick and John Cripps.

Mr. Cripps stated that his complaint is that his front pins were in place with the exception of one 90' off the road which he said he had never found a pin at that location. Mr. Cripps said there was a red painted, slashed, admitted by Thomas White, that it was a surveyor's mark, in the division of the two plots of the original line where the subdivision was put together. Mr. Cripps stated that he got a call one weekend that someone had put in concrete monuments at two corners, one at the road and one 90' off of the road and run a line of steel fence posts straight through his carport on a line 472' long. Mr. Cripps said he came from Memphis immediately. He said he knew where his front pin was; he measured, it used to be 24' from where a utility pole guy wire entered the ground. Mr. Cripps said he stretched his tape; this new monument was 20'. It had been moved down the road 4' on me. Mr. Cripps said he deducted to keep the angle 90' of the road at the other corner; if this one was off 4' so would that one be off 4'. Mr. Cripps stated that he waited seven months; he said he marked a line to the existing tree, the only line that he ever knew. Mr. Cripps stated that when he was looking for a pin at that location he never found a pin at that location

Steve Reed appeared before the board at the request of Mr. Cripps. David Mathews, board chairman, asked Mr. Reed "Yours is lot 1 (Mr. Reed responded, "Yes sir"), White's is lot 2 (Mr. Reed responded, "Yes sir") and the corner that you found when you said he marked it, did he set a new corner there or did he find? Tom White responded that the original corner was there. Mr. Reed stated that "it may have been. This was on the back and I wasn't with them whenever, the only thing I got was a voice mail on my answering machine that they had been up there on Friday, got late in the afternoon, I thought it said, I can't be very specific about it, that they had marked that back corner and that I wouldn't have any problems finding it, and as far as if he just went back there and I wasn't smart enough to find it, and he found it and cleared it out and remarked it or whatever I don't know but that was the back pin. The front pin is the one I know that I had seen it the first time that we ever looked at the property.

Max Billingsley, board member, asked Mr. Reed, "Did it have any identification caps on the top of it?" Mr. Reed answered, "Yes, sir it did. Now I'll have to clarify this: One day Mr. Cripps, I was down there, I've got a DR Haul Train mower and Mr. Cripps was down there, this was after all this started, and asked me, he said will you help me clear out some of this, I am trying to find, to make sure where your pin is? So I went with my DR mower, went up there and started trying, during that time it was either July or August, it was a hot part of the time and all the foliage had grown up around that stump and I couldn't find it and I hit the pin and that's the only reason that if that pin has been moved a fraction or

anything else, I hit with that mower. As soon as I hit it with the mower, I backed off." Mr. Cripps stated, "That's what chipped the top of it. Tom says it looks like it's obviously been redriven. The DR Brush mower cut the top off of the cap."

Mr. Mathews asked Mr. Reed, "The front marker, between 1 and 2, and the rear marker, between 1 and 2, as it stands now, that is your line, you don't have any problem or question on those corners?" Mr. Reed answered, "No, sir."

Mr. Mathews asked Tom White, "Tom, is that the same with you?" Tom White answered, "Yes, sir." Mr. Mathews then stated, "So as far as we know we don't have a question on this line at all?" Mr. Reed stated, "No, sir." Mr. Cripps then stated "We do have a question on that line. Tom drove another pin four feet from that one, from the existing pin. He said this pin, in his response, 'it's obvious that Steve Reed's pin had been moved. The cap had been drove through the pin and it was loose. And we drove another rebar reference pin four feet from it.' When I turned him into this board, these corner pins became rebar reference pins and I've never found a definition in here for a rebar reference pin. He also drove the other pins four feet off. When he drove mine four feet off and I questioned him, he had 66 feet of frontage instead of 62. Chris took more shots and Chris said 'Steve's pin needs to move down four feet' and that pin is on the map."

Tom White said, "Well, I can tell you, Chris never said that. Chris didn't take the shots."

Mr. Mathews asked, "Now the pin that you are talking about was an original pin, it's not a new pin?" Mr. White responded, "No sir it was the original. We all agree that that pin is the original pin."

Mr. Mathews asked, "What do you know about this four foot one way or the other?" Chris White responded that "I know how it happened. I know now, after we went back out and relocated everything, we tied these back corners, were still here, we found this pin, that this pin we were relying on here, the distance was within a 100th of this when we shot between them, but after tying everything else in we found that it was two feet back north of this line, it was on this tract and that's what when relying on this line shifted everything here. Now after we tied this in and found out that that pin was correct everything matches perfectly and every pin before that they couldn't find out here, we found all these front pins are in. They're all there in correct positions." Mr. Cripps asked, "When did you find these? I didn't get a phone call saying Mr. Cripps, we found out what happened down there. We've made a mistake." Chris White said, "That was after you pulled everything up. After you pulled everything up out here is when we went back and tied all these back corners and found that these two front pins were correct. The ones that you found out here between your two lots." Mr. Cripps asked Chris White, "So you know you put these monuments and these pins four foot over on me?" Chris White said, "Not both of them were four feet over. The

one at the road was four feet over; the one back here was only about two feet too far north.

Mr. Mathews asked "What about the line that was going through his garage? Is it still going through there?" Chris White said, "It still goes through the garage."

Mr. Mathews stated, "Going back and having corrected this little deal here on the two foot, having done that, there's still an encroachment?" Chris White responded, "Yeah, there's still two feet out of line."

Mr. Cripps said, "Chris just made the statement that the line 90 feet off the road was put in the correct place, you can compare those pictures, that is the line that they put in their steel posts, and if you'll flip, it's two feet to this side of this tree, if you flip the page, when I had my survey it runs on this side of this tree. That's the pin 90 feet from the road that Chris just made the statement that they had put it in the right place." Chris White answered "Where it is now." Mr. Cripps said, "Where it is now is in this picture right here. That's its present location." Tom White stated, "We have no problem with where it is now." Mr. Mathews asked "Is where it is now, is that correct?" Mr. Cripps said, "I hired a surveyor to put it in, yes I'll agree with his survey. Tom White's survey, no sir, it was four foot off." Chris White said, "No it wasn't four feet off." Mr. Cripps stated that "it was about four foot and about five inches." Chris White stated, "That's at the road. Out here the angle was."

Mr. Cripps then showed the survey that he paid for. Mr. Cripps stated that, "My surveyor says that on his plat, he's showing his line to be straight. It's not. It's broken right here, different directions. Therefore, they say three times in their statement that they set up on this pin and this pin to shoot this location and this location." Tom White responded, "Absolutely right." Mr. Cripps continued, "If you shoot this and this you're gonna end up four feet on me right here, not at that point, according to your straight line, so if you shot off of your back corners and you have this line straight, you would end up putting a pin there and there." Chris White said, "But it's not four feet off." And Mr. Cripps said, "A little better than four feet."

Mr. Billingsley stated, "It's not the function of this board to sit down and try to solve boundary disputes and its strictly the function of this board to see if there has been any misconduct or incompetence or wrongdoing on the part of the surveyor."

Mr. Cripps informed the board that he could, if given the chance, prove misconduct and incompetence.

Tom White asked if he could respond to any of this. He responded, "My youngest son owns lot 2. He lives in Sparta, NJ, a thousand miles away. He's owned it since 1996. He bought the first lot in the subdivision. He was down in

this part of the country maybe twice a year. He noticed at one point there that there was a power pole that Mr. Cripps claimed was on his property, a well that was? and there was a tree back there that Mr. Cripps had told him on the phone was the line. He said no that's not right, you need to get a survey. Since we had done the original survey, he asked me 'can ya'll put those points back in?' My crew went out there, they tied into two points that appeared to be original points, turned the angle according to the plat, placed those in, Todd asked us to put concrete monuments, put in some steel posts on the line. I left a note on a business card on Mr. Cripps' door about two days before we were out there and I found out later that he was in Memphis or somewhere, I didn't know that. I told him that we were gonna set those on that date and that we would meet with him and make sure that he understood that before we finished everything, stamping or whatever. Well, we didn't hear anything else. I was having heart problems. I have a defibrillator implant, all kinds of problems. I live 70 miles from there. Never heard another word. I don't know who Mr. Cripps thought would have had that line surveyed between him and Todd. I don't think somebody else would have come in and done that. Todd called him early on in the last year to tell him that he was going to build a house on this property and needed to make sure they got this line straightened out. He kept telling him that he had pulled up these monuments and all of that. So, I met with Mr. Cripps down there in March, went back, tied in the same two points, shot those points in and he was telling me that this tree was his corner. Which we knew the tree wasn't, there is no tree even mentioned on the plat, just iron pins." Mr. Cripps stated, "No concrete monuments mentioned there either. Mr. White responded, "No not on the plat." Mr. White continued, "So we shot that back in, he told me about that point down at the road. We tied in to, the only points existing at that time, that day that we were down there, was Mr. Reed's corner, this corner, this corner, that we knew at that particular time, he showed me a point. . . . Mr. Cripps stated, "I found that pin." Mr. White said, "Well we found it when we were down there and tied it in that day. There was an iron pin he showed me up here by the road that was a $\frac{3}{4}$ danner(?) rebar that was bent that appeared to be right at the edge of the road which didn't appear to be the right?; we tied into that; we tied into, we found a pin that was laying bent over on the ground I believe at this corner, found this one, we tied those. And I told Mr. Cripps then, I said 'please leave our reference pins in; we're gonna plot this up, see what happens with the thing, see if we can figure out what is wrong, something is wrong, something has been moved, we don't know what. At that point he made a statement to me that timber cutters had cut back here and knocked this pin out and he stuck it back where he thought it went. That was away from the property, but he made that statement to me. But I asked him not to remove those and we'd try to straighten this out. Meantime, Todd had called me and said he was going to be in on the week of April 4 and we'd try to meet with Mr. Cripps down there to see about trying to work this thing out. I was down there with Todd on the 4th of April, the points were still there, and we had already determined that we were gonna have to tie in some more outside boundary and try to figure out what was going on. We down and met with Mr. Cripps on a Sunday, walked in there and we noticed things were gone.

We walked up and I asked Mr. Cripps, I said, 'Mr. Cripps, did you pull the pins out?' He said the grater got them. So I just walked off. He told me he was gonna save us a problem, he was gonna hire him a surveyor, which I wish he had done to begin with. We find out later that Darrell McBride, who is a former employee of mine, was the surveyor that did the work. We went back in, after that, Mr. Cripps had found some of the other pins, uncovered them, we tied all of that in, we found that the pins, with the exception of this one, this one is the culprit and not the others, these all checked very well. They're within a tenth of a foot, which nobody's gonna argue over, I wouldn't. And the next thing I knew I had a complaint filed against me. We didn't have a chance to go back and finish what we were doing. I find out that McBride had done it so I called Darrell and I asked him, I said 'Would you furnish me a copy of your plat and maybe we can figure out what's wrong and try to get this thing resolved.' He said Mr. Cripps didn't want a plat, but I'll furnish you my work product. He never did."

Mr. Cripps then responded, "Tom says they went down and they discovered a well and a utility pole, suspiciously close to the line. They called Todd, Todd said run that line. Mr. Cripps is trying to claim a strip of land. This is in his There's my well and my utility pole. The utility pole setting on the line belongs to the electric company, it's not mine, it has a tag on it says it belongs to theirs and here's the original engineer's plat that he gave to the pole crew where to put that pole. I had nothing at all to do with the location of that pole. I had something to do with the pole over here 30 something feet from the line. My well is 30 something feet from the line and it was drilled for Mike Mayes before I ever bought the subdivision. That was accusations."

After further discussion, David Mathews stated that seems to him that chancery court is where this matter needs to go. Mr. Cripps said, "To settle a boundary dispute, not the laws that the surveyor broke. I'm here for the disciplinary action of the laws that the surveyor broke, not capping his pins, not stamping that monument right there, stood there seven months. He said 'I set that monument; he decided this after I turned him in to the board, and we decided not to stamp it until Mr. Cripps had a chance to approve its location.' When he did not stamp those monuments for seven months, that's an infraction of the law, I'm sorry. It is a Tennessee state law. When he didn't cap those pins that is a Tennessee state law." Mr. White said, "Those pins were reference pins, not corner pins and you were told that." Mr. Cripps asked Mr. White, "Why is your son suing me for removing monumentation?" Mr. White said, "I have no idea about that." Mr. Cripps continued, "If you're gonna set a legal corner in the state of Tennessee with a rebar pin the first requirement, and this is not trivial, you've got to choose a pin at least 18 inches long. This is a certified ruler and these two pins are not 18 inches long." Mr. Billingsley said, "Well he said those are reference markers. I've set nails or anything else as reference points." Mr. Cripps continued, "If you'll read his response, he starts out, 'we reset corners.' As you read on he's gonna tell you again, 'we set points.' By the time he gets to the end of the second page 'we set rebar reference pins.' They became rebar reference pins

after I complained to the board. The board should be able to see this.” Mr. White stated, “They were reference pins before your complaint was ever filed.” Mr. Cripps asked, “Then why did you say ‘Chris, cap those pins.’” Mr. White said, “I didn’t tell Chris to cap those pins.” Mr. Cripps said, “I’m sorry but the mistake on the 375 contour, that’s gonna be costly to everybody in that subdivision. That is a surveyor’s mistake. Where did the line come from? If there’s a statement of source of information from where that line is derived, where did it come from? Read me the statement where you got the line.” Mr. Mathews asked, “You’re talking about the contour?” Mr. Cripps stated, “The contour, where did he get it? You shouldn’t have to ask him, there should be a statement on there that says where he got it. That’s a composite plat. He should have told where he got that line and qualified it, according to this blue book right here, the laws laid out by you people and a law in the state of Tennessee.” Mr. White said, “We don’t say a composite plat on that.” Mr. Cripps says, “It is a composite plat if you imported that line from somewhere.” Mr. White said, “We didn’t import that line, we located that line on the ground.” Mr. Cripps responded, “You didn’t survey it. Don’t have metes and bounds on it; don’t have any curve data on it.” Mr. Mathews said, “That’s not necessary.” Mr. Cripps continued, “Mr. White came down to survey. He was supposed to meet me to survey. I had pulled these rules off the internet. I knew I could not refuse him entrance to my place. He came up with another fellow, course I said go right ahead, I couldn’t stop him. They could get an injunction. The other fellow left and Chris drives up and they do their survey work. They’ve got their company logos on the side of their truck. They’re surveyors. They’re here for the purpose of surveying. Two days later I come back and here’s two big well drilling rigs that have come across my place, tore the ground up where I keep it mowed. Chris White asked “What’s that got to do with us?” Mr. Cripps stated, “What it’s got to do with you is your son was in New Jersey according you. Did you tell the contractor what to do that day?” Mr. White said, “No I did not.” Mr. Cripps continued, “The well drillers gained entry to my place.”

Chairman Mathews asked for final statements.

Mr. White made the statement that he would like to have had the opportunity to have gone ahead and finish what they started.

Mr. Cripps said, “I would too. We will finish it cause I’ll appeal it until I get a chance to present my proof. I demand a chance to present my case in its entirety.”

Mr. Billingsley said “it sounds like the civil courts are where you are now.”

Mr. Cripps said, “Justice demands that I get a chance to go over the laws that these two surveyors broke. It has nothing to do with civil court. We’re going to civil court on the line dispute. I have no complaint with the line dispute. My complaint is with these two surveyors.” Mr. White said, “There’s not a line

dispute there now, to my knowledge.” Mr. Cripps said, “Right, there gonna have to, your son’s gonna have to drop the charges. I’ve cleared that up. It’s cost me \$4,000.00 to do it, but I cleared it up.”

The board then reviewed the allegations and Mr. Mathews instructed the members to respond as whether or not a violation was made based what they heard here.

1. Allegations that there is no cap and the length of the pin (instead of 18”, it’s only 17 7/8”) – Max Billingsley made the statement that “an iron pin, we’re looking for guidelines, and all the standards there are guidelines for placing monuments, for placing corner monuments, and reporting corner monuments and as far as them being 17 7/8”, the way they cut steel, it’s just impractical to talk about the length there. And then we talk about the caps. That is a definite requirement to put a cap on a property corner. The respondent has said that he planned on, he set those in anticipation of getting agreement on them, at which time he was going to cap them and possibly finalize the survey. The respondent has said that he did not intend for those to be permanent corner markers at that particular time. But at some point in time, once he got agreement on them, he would cap them. That is probably not good practice and he probably should have gone ahead and capped them and stood by if he had really formed an opinion of exactly where they go, right or wrong, if that’s his opinion, probably should have gone ahead and capped them. So, therefore, I would think that the surveyor in that particular case should be cautioned about the setting an iron pin and leading someone, a neighbor or whatever, to believe that that has been set up. However, there are extenuating circumstances where he knew that we had a dispute over that boundary so how he did that was probably not the best practice and requires some caution.” Mr. Mathews stated that Mr. Billingsley’s motion was to send the respondent a letter of caution concerning these items as to part of the cause. Sue Braly seconded the motion. The motion carried unanimously.
2. Lack of Notification – Mr. Mathews stated that “it is clear that the surveyor is supposed to notify the adjacent owners and we have heard testimony from both sides. The question is did Mr. White have good faith that the owner lived there? Obviously, he did not get notification.” Mr. Mathews asked Mr. White if he had any reason to believe that Mr. Cripps did not live there and Mr. White said “I didn’t have any reason to believe he did not. There’s a house up on the hill with power lines up, a truck parked there, I assumed someone lived there.” Sue Braly made the motion that the board issue a separate letter of caution for non-notification. Max Billingsley said that letter of caution could be

added to the previous letter of caution. David Mathews then called for a vote on the motion and the motion carried unanimously.

3. Conflict of Interest – David Mathews asked Mr. Cripps if he knew that Mr. White was the father of the adjoining owner and that he was the surveyor surveying the property. Mr. Cripps said “I knew that he was the father after I had talked to a couple of people, I did not know that he was the surveyor of the property because you could look at the monuments, by the book, and they were contrary to what a surveyor would have done.” Mr. Mathews asked Mr. White if there was any notification that he was the father. Mr. White answered “to my knowledge Todd had talked to Mr. Cripps sometime ago about it.” Mr. Cripps said “no” and Mr. White said “that’s what my understanding was. Todd was my client and I told him, I said Todd, will there be a problem, you know, I’m your father, and I don’t want to get involved in something like that. He said well you did the original survey; I’m in Sparta, NJ, I don’t know any other surveyors in that area and I said well do you want me to get somebody? He said, ‘no, I’d like you to reset those points.’ And I said well if that’s what you want to do, we’ll try to do it.” Max Billingsley stated that he “didn’t feel like there was any conflict of interest. I believe that they acted according to way that they would have acted had it been Mr. Reed or anyone else and I do not see that we have any evidence whatsoever or grounds, we innuendo and suspicion but there is absolutely no, just because the two were related, we have no other evidence that there was any intent to change anything or do any special favors in this case and I would move that we dismiss.” Sue Braly made the motion to dismiss this accusation. Max Billingsley seconded the motion. The motion carried unanimously.
4. Claim that there is a composite survey – Mr. Mathews asked if the composite survey was referring to the 1996 survey; that there’s accuracy problems. Mr. Billingsley stated “what I believe and we can clarify it, what you’re talking about the composite plat, you’re referring to this plat, right?” Mr. Cripps said “the 1996 survey, original subdivision survey.” Mr. Billingsley said, “The plat has passed the statute of limitations. The survey is based on the date that is shown and therefore, unless we wanted to, I don’t see any need to, I don’t see anything wrong with the plat.” David Mathews said that according to Mr. White’s statement, that is not a composite survey, that the line on the water line, his statement was that at this time the ’96 survey, as he surveyed that line, the dimensions are shown accordingly. Mr. Mathews then addressed the accuracy question. Mr. Mathews stated that “accuracy has to do with actual standards and that really doesn’t apply to, I think as you understood it, is if he puts the corner over here 4’ or 2’ or 4’ off the incorrect location, that’s actually accuracy

standards, that won't apply. The location of the line doesn't apply to this standard. The accuracy has to do with his measurements or survey closure." Mr. Cripps said that the accuracy that he is talking about is the accuracy of locating that 375 TVA's map laying there. . ." Mr. Billingsley said that's no evidence that is inaccurate. Mr. Cripps said that "TVA's line right there shows that it is not now and never was anywhere within 60' of that line." Mr. Billingsley told Mr. Cripps that "we can't make that comparison right now and if there is an issue there, then it would have to be taken up in a court of law as to the boundary dispute between TVA and the adjacent land owners and is not within the jurisdiction of this board to make that determination." Max Billingsley made a motion to dismiss these two accusations. Sue Braly seconded the motion. The motion carried unanimously.

Mr. Mathews made the comment at this time that his "main concern here is that this whole process is probably a lack of communication. I think that was the biggest culprit right there. This should have been handled better from the surveyor's standpoint and this probably could have been avoided."

5. Malpractice, incompetence and recklessness – Max Billingsley stated that he did not think that the surveyor was reckless. Mr. Billingsley also stated that the complainant has not proven malpractice, incompetence or recklessness. Max Billingsley made a motion to dismiss these accusations because we have insufficient evidence that the surveyor's practice was generally reckless or incompetent, because we are only looking at one thing where there was a mistake that they have agreed to. They have changed their opinion in that they have found a mistake up there on another pin that they were relying upon and they have discovered why there was a discrepancy in the survey. Sue Braly seconded the motion. The motion carried unanimously.

David Mathews stated that he would like to add, in that letter of caution, that Mr. White needs to work on his communication. Mr. Billingsley agreed.

Mr. Cripps asked for one clarification. He wanted to know if the pins as the board sees it, the re-bar pins, are not legal corner monumentation as you said. You dismiss it because it's not, you say they're reference pins, not legal corner monumentation. Mr. Billingsley said, "The man said he had not completed his survey there and we're saying that if you put them down, you're going to lead the public to believe that they are there. He says they weren't there as a final survey. You thought they were the final survey or you've indicated that you thought they were the final survey, therefore, we're dealing with communication."

Robert Herndon, Staff Attorney, then presented the following complaints for review:

Complaint #949600 - This complaint was concluded in litigation and the parties were to report the results to the board, however this has not happened over the last decade. Max Billingsley made a motion to close this complaint. David Mathews seconded the motion. The motion carried unanimously.

Complaint #949210 –This complaint was concluded in litigation and the parties were to report the results to the board, however this has not happened over the last decade. Sue Braly made a motion to close this complaint. David Mathews seconded the motion. The motion carried unanimously.

Complaint #200502600 – Sue Braly made a motion to dismiss the complaint because the complaint itself has no merit. Max Billingsley seconded the motion. The motion to dismiss the complaint carried unanimously. Max Billingsley made a motion to send the respondent a letter of warning telling him that his plat does not meet the Standards of Practice {0820-3-.07(1)(h)5} and that the corners are not properly described and there was no location map and the north arrow was not annotated.

Complaint #200500390 – Max Billingsley made a motion to dismiss this complaint due to the fact that the complainant has not met the conditions required under TCA 62-18-116(a) (2). Sue Braly seconded the motion. The motion carried unanimously.

Complaint #2005029521 – Max Billingsley made a motion to dismiss this complaint due to the fact that the complainant has not met the conditions required under TCA 62-18-116(a) (2). Sue Braly seconded the motion. The motion carried unanimously.

Complaint #200503403 – Max Billingsley made a motion to dismiss this complaint due to the fact that the complainant has not met the conditions required under TCA 62-18-116(a) (2). Sue Braly seconded the motion. The motion carried unanimously.

Complaint #200503292 – Max Billingsley moved to dismiss this complaint with a letter of caution concerning the maintenance of accuracy on the license application. Sue Braly seconded the motion. The motion carried unanimously.

Complaint #200502923 – Max Billingsley made a motion to dismiss this complaint due to the fact that the complainant has not met the conditions required under TCA 62-18-116(a) (2). Sue Braly seconded the motion. The motion carried unanimously.

Complaint #200503418 – Max Billingsley made a motion to dismiss this complaint due to the fact that the complainant has not met the conditions required under TCA 62-18-116(a)(2). Sue Braly seconded the motion. The motion carried unanimously.

There being no further business, the meeting was adjourned at 4:00 p.m.

Respectfully submitted,

Donna Moulder
Administrative Director

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David Mathews, Chairman

Sue Braly, Vice Chairman

K. Max Billingsley

Jackie Dillehay